

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CAVIN DEON MADISON,

Petitioner,

Case No. 2:20-CV-11365

v.

HONORABLE DENISE PAGE HOOD
CHIEF UNITED STATES DISTRICT JUDGE

RANDEE REWERTS,

Respondent,

/

**OPINION AND ORDER TRANSFERRING THE PETITION FOR WRIT
OF HABEAS CORPUS TO THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

Cavin Deon Madison, (“petitioner”), presently confined at the Carson City Correctional Facility in Carson City, Michigan, filed a petition for writ of habeas corpus in this district pursuant to 28 U.S.C. § 2254. Petitioner seeks to be released from prison on the sentence of 4-20 years that he received in the Kent County Circuit Court for Domestic Violence and Knowingly Assaulting a Pregnant Individual, Third-Offense. Petitioner seeks habeas relief based on the Coronavirus pandemic and his fear that he might contract the disease, in spite of efforts undertaken by the Michigan Department of Corrections to prevent the spread of Coronavious in the prisons. In the interests of justice, the Court concludes that the proper venue for this

petition is in the Western District of Michigan and orders that the petition be immediately transferred to that district.

I. DISCUSSION

“Writs of habeas corpus may be granted by . . . the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is ‘the person who has custody over [the petitioner].’” *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004)(quoting 28 U.S.C. § 2242); see also 28 U.S.C. § 2243 (“The writ, or order to show cause shall be directed to the person having custody of the person detained”).

Petitioner does not appear to challenge his conviction in this petition but rather the conditions of his confinement, namely, the risk that petitioner might contract Coronavirus while incarcerated. Petitioner seeks immediate release from custody, alleging that none of the precautions taken by the Michigan Department of Corrections to protect the prisoners from contracting the disease are sufficient to prevent the spread of the disease.

When a habeas petitioner challenges his or her present physical confinement, the only proper respondent is the warden of the facility where the petitioner is being held. *See Gilmore v. Ebbert*, 895 F.3d 834, 837 (6th Cir. 2018)(citing to *Rumsfeld*, 542 U.S. at 435).

Petitioner does not directly challenge his conviction but instead challenges the conditions of his confinement related to the risks associated with the Coronavirus. A habeas petition filed in the federal court in the district of a habeas petitioner's confinement is the proper means of testing the conditions of the petitioner's confinement. *See Coates v. Smith*, 746 F.2d 393, 395 (7th Cir. 1984); *See also Barrera v. Decker*, No. 20-CV-2755 (VEC), 2020 WL 1686641, at *1 (S.D.N.Y. Apr. 7, 2020)(district court in the Southern District of New York lacked venue over habeas petitioner's claim that his health condition put him at imminent risk of contracting COVID-19, where the petitioner was incarcerated in New Jersey). Petitioner is incarcerated at the Carson City Correctional Facility, which is located in the Western District of Michigan. Petitioner should challenge the conditions of confinement in that district.

To the extent that petitioner is challenging his conviction, this Court also does not have jurisdiction over the case.

28 U.S.C. 28 U.S.C. § 2241 (d) states:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of

justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. § 2241(d) thus allows a state prisoner who seeks relief from a state court conviction to file a petition for writ of habeas corpus either in the federal district where he or she was convicted or in the district where he or she is confined, provided, of course, that both judicial districts are located within the same State. *Rumsfeld v. Padilla*, 542 U.S. at 443; *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 497 (1973); *Schlanger v. Seamans*, 401 U.S. 487, 490, n. 3 (1971).

Petitioner was convicted in Kent County, Michigan and is presently incarcerated at the Carson City Correctional Facility, both located in the Western District of Michigan. A federal district court lacks jurisdiction to hear a state prisoner's habeas petition, where the petitioner was not convicted, sentenced, or incarcerated within that district. *See Wadsworth v. Johnson*, 235 F. 3d 959, 962-63 (5th Cir. 2000). Petitioner was convicted and sentenced in a state court located in the Western District of Michigan and is incarcerated in a state facility likewise located in that district, thus, the United States District Court for the Western District of Michigan is the only court with jurisdiction to hear his 28 U.S.C. § 2254 petition. *See Carmona v. Andrews*, 357 F. 3d 535, 537-39 (5th Cir. 2004); *See also Manes v. Bell*, No. 07-CV-11716, 2007 WL 1228093, * 1 (E.D. Mich. Apr. 23, 2007)(citing *Gist v. Henderson*, 401 F. Supp. 819, 819 (W.D.N.Y. 1975)).

For the convenience of parties and witnesses, in the interests of justice, a district court may transfer any civil action to any other district or division where it might have been brought. *See Weatherford v. Gluch*, 708 F. Supp. 818, 819-820 (E.D. Mich. 1988); 28 U.S.C. § 1404(a). When venue is inappropriate, a court may transfer a habeas petition to the appropriate federal district court *sua sponte*. *See Verissimo v. I.N.S.*, 204 F. Supp. 2d 818, 820 (D.N.J. 2002).

Venue is improper in this district. The Court orders that the case be transferred to the Western District of Michigan. “Given the significant liberty interests at stake, the time-sensitivity of Petitioner’s claims, and the risks to Petitioner’s health posed by the rapid spread of COVID-19,” the Court “directs the Clerk to effectuate the transfer as soon as possible.” *Barrera v. Decker*, 2020 WL 1686641, at * 1.

II. ORDER

Accordingly, the Court **ORDERS** the Clerk of the Court to transfer this case to the United States District Court for the Western District of Michigan pursuant to 28 U.S.C. § 1404(a).

s/Denise Page Hood
Chief Judge, United States District

Dated: June 9, 2020